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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09 595,241	06 16 2000	Yukio Yamakawa	3620-4006	2778

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Morgan & Finnegan LLP
345 Park Avenue
New York, NY 10154-0053

EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11 06 2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/595,241

Applicant(s)

YAMAKAWA ET AL.

Examiner

Lynda M Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 10 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment as been entered as Paper No. 5 as requested. Claims 2-9 have been canceled. The specification has been amended to reflect the Applicant's priority data, however, related priority data is only needed for US applications. As such, the Examiner suggests deleting the related foreign data.

Response to Arguments

2. Applicant's arguments with respect to the 35 U.S.C. 102(b) as being anticipated by Suzuki et al., US patent 5,814,569 and Sabee, US patent 4,910,064 have been fully considered but are moot in view of the new ground(s) of rejection. However, with respect to the new rejection the following comment is made in response to Applicant's arguments.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sabee, US 4,910,064.

The Sabee patent is directed to a non-woven web comprising a number of continuous filaments that are stabilized by melt-blown fibers to create a coherent web. Sabee discloses depositing the melt-blown fibers on one or both sides of the continuous filaments, and cross-

Art Unit: 1771

laying two or more webs to form a laminate (Abstract and Figure 1). The continuous filaments may be made from a variety of textile materials such as cotton and rayon as well as thermoplastic polymers (Column 7, lines 53-56). Sabee discloses pulling the stabilized web from the exit draw roll by a cross lapper, cross layer, heated embossing rolls, or a conventional winder (Column 5, lines 23-26 and Column 15, lines 36-38 and Figure 1). Moreover, Sabee teaches that any of these methods are capable of applying various degrees of tension to the web depending on the nature of the final product (Column 5, 25-28).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., winding directly follows the piling and bonding) are not recited in the rejected claim(s) (Page 3, Paragraph 5). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Presently, the claim is not limited to winding "directly" after piling and bonding.

With respect to the piling and bonding limitation set forth, the Examiner asserts that these processing steps are inherent to melt-blown webs. Although Sabee does not explicitly teach the claimed tension to unroll the non-woven roll, it is reasonable to presume that this property limitation is inherent to the invention of Sabee. Support for said presumption is found in the use of like materials (i.e., melt-blown fibers used to create a coherent web) and the use of like processes (i.e., winding on a conventional roller), which would result in the claimed property. The burden of proof is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594

Art Unit: 1771


In addition, the presently claimed property of the required tension to unroll the non-woven roll would obviously have been present once the Sabee product is provided. *In re Best*, 195 USPQ at 433


Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls 
November 4, 2002


CHERIE L. SALVATORE
PATENT EXAMINER